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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Jason Steffes,
Plaintiff,
v.
Commissioner of
Administration,
Defendant

No. CV-18-02021-PHX-DLR

ORDER

On July 23, 2019, the Court reversed the Social Security Administration's non-disability decision and remanded this matter for further proceedings. (Doc. 14.) On remand, the Administration ruled in Plaintiff's favor, awarding him \$161,319.00 in past-due benefits. (Doc. 18-1 at 1.) Plaintiff previously entered into a contingent-fee agreement under which he agreed to pay his attorney 25% of any past-due benefits awarded. (Doc. 18-5.) Accordingly, Plaintiff now moves for an award of \$40,329.75 in attorney's fees, representing 25% of his past-due benefits. (Doc. 18-1 at 1.)

Whenever the Court enters a judgment favorable to a disability benefits claimant, the Court can award reasonable attorney's fees in an amount not to exceed 25% of the total past-due benefits awarded to the claimant. 42 U.S.C. § 406(b)(1)(A). Section 406(b) "does not displace contingent-fee agreements as the primary means by which fees are set for successfully representing Social Security benefits claimants in court. Rather, § 406(b) calls for court review of such arrangements as an independent check, to assure

1 that they yield reasonable results in particular cases.” *Gisbrecht v. Barnhart*, 535 U.S.
 2 789, 807 (2002). Thus, when determining whether a contingency fee request is
 3 reasonable, the Court must first “respect the primacy of lawful attorney-client fee
 4 agreements.” *Crawford v. Astrue*, 586 F.3d 1142, 1150 (9th Cir.2009) (en banc) (internal
 5 quotations omitted). The Court starts with the contingent-fee agreement and then tests
 6 the resulting award for reasonableness, adjusting downward “if the attorney provided
 7 substandard representation or delayed the case, or if the requested fee would result in a
 8 windfall.” *Id.* at 1149-51. When assessing whether the requested fee would result in a
 9 windfall, the Court considers whether the benefits were proportionate to the time spent on
 10 the case and may, if necessary, use the lodestar calculation as a non-dispositive aid. *Id.* at
 11 1151.

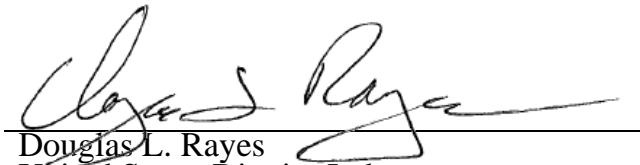
12 Plaintiff’s contingent-fee request is not greater than 25% of past-due benefits, and
 13 there is no evidence of substandard performance or delay by Plaintiff’s counsel. The
 14 Administration argues, however, that \$40,329.75 is unreasonably high because counsel
 15 spent 30.3 hours working on this case, and therefore the award would translate to an
 16 effective hourly rate of \$1,331.01. Relying on *Norden v. Comm'r of Soc. Sec. Admin.*,
 17 No. CV-19-00373-PHX-JAT, 2020 WL 3472551, at *2 (D. Ariz. June 25, 2020), the
 18 Administration argues that the Court should award \$36,360.00, representing an effective
 19 hourly rate of \$1,200.00. (Doc. 20.) *Norden* reduced a contingent-fee award from an
 20 effective hourly rate of \$1,295.45 to an effective hourly rate of \$1,200, but in doing so
 21 explained that “1,295.45 . . . falls slightly outside the range of reasonableness that this
 22 Court, and others in this district, have found reasonable in recent cases *resolved by a*
 23 *stipulation to remand without full briefing.*” *Id.* (emphasis added). Likewise, this Court
 24 recently reduced a contingent-fee award from an effective hourly rate of \$1,624.82 to an
 25 effectively hourly rate of \$1,200 “considering this case resolved through a stipulated
 26 remand without full briefing[.]” *Demand v. Comm'r of Soc. Sec. Admin.*, No. CV-18-
 27 08063-PCT-DLR, 2020 WL 1659898, at *1-2 (D. Ariz. Apr. 3, 2020).

28 Unlike *Norden* and *Demand*, this matter was not resolved through a stipulated

1 remand and instead required full briefing. Under these circumstances, the Court does not
2 find counsel's requested fee to be out of proportion to the time spent on the case.
3 Accordingly,

4 **IT IS ORDERED** that Plaintiff's motion for attorney's fees under 42 U.S.C. §
5 406(b) (Doc. 18) is **GRANTED**. Counsel's fees are approved in the amount of
6 **\$40,329.75**, out of which Plaintiff shall be refunded the \$6,112.75 already received by
7 counsel under the Equal Access to Justice Act. (*See* Doc. 17.) Any fees withheld by the
8 Administration in anticipation of an order under § 406(b), less an administrative
9 assessment pursuant to § 406(d), may be paid to Kathryn Dicus, 10645 N. Tatum Blvd.,
10 Ste. 329, Phoenix, AZ 85028, consistent with this order.

11 Dated this 24th day of November, 2020.

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15 Douglas L. Rayes
16 United States District Judge
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